

company, partnership, association, trust, foundation, or fund, and any group of persons, whether incorporated or not, permanently or temporarily associated together for joint action on any subject or subjects.

Publication or *publishing* of a work includes writing or printing a work; permitting, authorizing, or consenting to the writing or printing of a work; and paying for the writing or printing of a work.

Subversive is any individual who advocates or teaches:

- (1) Opposition to all organized government;
- (2) The overthrow, by force or violence or other unconstitutional means, of the Government of the United States or of all forms of law;
- (3) The duty, necessity, or propriety of the unlawful assaulting or killing, either individually or by position, of any officer or officers of the United States or of any other organized government, because of his, her, or their official character;
- (4) The unlawful damage, injury, or destruction of property; or
- (5) Sabotage.

Totalitarian dictatorship and *totalitarianism* refer to systems of government not representative in fact and characterized by:

- (1) The existence of a single political party, organized on a dictatorial basis, with so close an identity between the policies of such party and the government policies of the country in which the party exists that the government and the party constitute an indistinguishable unit; and
- (2) The forcible suppression of all opposition to such a party.

Totalitarian party includes:

- (1) Any party in the United States which advocates totalitarianism;
- (2) Any party in any State of the United States, in any foreign state, or in any political or geographical subdivision of any foreign state which advocates or practices totalitarianism;
- (3) Any section, subsidiary, branch, affiliate, or subdivision of any such association or party; and
- (4) The direct predecessors or successors of any such association or party, regardless of what name such group or

organization may have used, may now bear, or may hereafter adopt.

[56 FR 50482, Oct. 7, 1991, as amended at 58 FR 49912, Sept. 24, 1993]

§313.2 Prohibitions.

Except as provided in §313.3, no applicant for naturalization shall be naturalized as a citizen of the United States if, within ten years immediately preceding the filing of an application for naturalization or after such filing but before taking the oath of citizenship, such applicant:

- (a) Is or has been a member of or affiliated with the Communist Party or any other totalitarian party; or
- (b) Is or has advocated communism or the establishment in the United States of a totalitarian dictatorship; or
- (c) Is or has been a member of or affiliated with an organization that advocates communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterance or through any written or printed matter published by such organization; or
- (d) Is or has been a subversive, or a member of, or affiliated with, a subversive organization; or
- (e) Knowingly is publishing or has published any subversive written or printed matter, or written or printed matter advocating communism; or
- (f) Knowingly circulates or has circulated, or knowingly possesses or has possessed for the purpose of circulating, subversive written or printed matter, or written or printed matter advocating communism; or
- (g) Is or has been a member of, or affiliated with, any organization that publishes or circulates, or that possesses for the purpose of publishing or circulating, any subversive written or printed matter, or any written or printed matter advocating communism.

§313.3 Statutory exemptions.

(a) *General.* An applicant shall bear the burden of establishing that classification in one of the categories listed under §313.2 is not a bar to naturalization.

(b) *Exemptions.* Despite membership in or affiliation with an organization covered by §313.2, an applicant may be

naturalized if the applicant establishes that such membership or affiliation is or was:

(1) Involuntary;

(2) Without awareness of the nature or the aims of the organization, and was discontinued if the applicant became aware of the nature or aims of the organization;

(3) Terminated prior to the attainment of age sixteen by the applicant, or more than ten years prior to the filing of the application for naturalization;

(4) By operation of law; or

(5) Necessary for purposes of obtaining employment, food rations, or other essentials of living.

(c) *Awareness and participation*—(1) *Exemption applicable.* The exemption under paragraph (b)(2) of this section may be found to apply only to an applicant whose participation in the activities of an organization covered under §313.2 was minimal in nature, and who establishes that he or she was unaware of the nature of the organization while a member of the organization.

(2) *Exemptions inapplicable.* The exemptions under paragraphs (b)(4) and (b)(5) of this section will not apply to any applicant who served as a functionary of an organization covered under §313.2, or who was aware of and believed in the organization's doctrines.

(d) *Essentials of living*—(1) *Exemption applicable.* The exemption under paragraph (b)(5) of this section may be found to apply only to an applicant who can demonstrate:

(i) That membership in the covered organization was necessary to obtain the essentials of living like food, shelter, clothing, employment, and an education, which were routinely available to the rest of the population—for purposes of this exemption, higher education will qualify as an essential of living only if the applicant can establish the existence of special circumstances which convert the need for higher education into a need as basic as the need for food or employment; and,

(ii) That he or she participated only to the minimal extent necessary to receive the essential of living.

(2) *Exemption inapplicable.* The exemption under paragraph (b)(5) of this section will not be applicable to an applicant who became a member of an organization covered under 313.2 to receive certain benefits:

(i) Without compulsion from the governing body of the relevant country; or

(ii) Which did not qualify as essentials of living.

§313.4 Procedure.

In all cases in which the applicant claims membership or affiliation in any of the organizations covered by §313.2, the applicant shall attach to the application a detailed written statement describing such membership or affiliation, including the periods of membership or affiliation, whether the applicant held any office in the organization, and whether membership or affiliation was voluntary or involuntary. If the applicant alleges that membership or affiliation was involuntary, or that one of the other exemptions in §313.3 applies, the applicant's statement shall set forth the basis of that allegation.

PART 315—PERSONS INELIGIBLE TO CITIZENSHIP: EXEMPTION FROM MILITARY SERVICE

Sec.

315.1 Definitions.

315.2 Ineligibility and exceptions.

315.3 Evidence.

315.4 Exemption treaties.

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SOURCE: 56 FR 50483, Oct. 7, 1991, unless otherwise noted.

§315.1 Definitions.

As used in this part:

Exemption from military service means either:

(1) A permanent exemption from induction into the Armed Forces or the National Security Training Corps of the United States for military training or military service; or

(2) The release or discharge from military training or military service in the Armed Forces or in the National Security Training Corps of the United States.